

ADAN ORTIZ,
Plaintiff,
VS.
GENCO I, INC.,
Defendant.

CASE No. 16-cv-4601-YGR

CASE NO. 17-cv-03692-YGR

**ORDER TO SHOW CAUSE RE: MOTION FOR
FINAL APPROVAL OF CLASS ACTION
SETTLEMENT**

TO ALL PARTIES AND THEIR COUNSEL OF RECORD:

You are **HEREBY ORDERED TO SHOW CAUSE** why:

(1) the date for hearing on the Motion for Final Approval of Class Action Settlement and for Award of Attorneys' Fees and Expenses in the above-captioned actions should not be **Continued 120 days**; (2) the deadlines to object, opt-out, or submit a claim form, should not be **extended 90 days** from the date of the Court's order on this OSC; and (3) the parties should not be ordered to provide such additional notices as this Court may order to ensure that the provisionally certified classes received adequate notice and opportunity to opt-out, object, or make a claim under the terms of the proposed class action settlements in these actions.

The parties shall submit a written ***joint*** response to the Order to Show Cause no later than **November 27, 2018**. A hearing on this Order to Show Cause will be held on Tuesday, **December 4, 2018**, on the Court's 2:01 p.m. Calendar, in the Federal Courthouse, 1301 Clay Street, Oakland, California, in Courtroom 1.

The Court's Order of August 13, 2018 (Dkt. No. 70) directed dissemination of the Class Notice, Postcard Notice, Request for Exclusion; and FLSA Opt-In Claim Form in the manner provided in the settlement agreement, and on the timetable set forth therein. The Order included a hearing date of December 11, 2018, for the Motion for Final Approval and the Motion for Attorney's Fees and Costs. However, counsel noticed these motions for *November 27, 2018*, on

1 the Court's calendar. While the Court has now corrected the hearing date by way of a clerk's
2 notice on the dockets of these actions, It is unclear from the materials submitted to date whether
3 the notices sent to class members included the erroneous November date or the correct December
4 11, 2018 date.

5 Further, the documents submitted in support of the Motion for Final Approval (Dkt. No.
6 71) raise concerns that the notice program ordered by the Court was not followed. For instance,
7 the declaration of Amanda Myette of Rust Consulting, Inc. states that “[a] website was created and
8 a web address was included in the Class Notice for viewing, downloading and or/printing the
9 Class Notice, Claim Forms, and Exclusion Forms from the Settlement and obtaining information
10 about the proposed Settlement. The web address included in the Class Notice was
11 www.gencosettlements.com.” (Decl. Myette, Dkt. No. 71-3, ¶ 7.)

12 As of the date of this Order to Show Cause, the website at www.gencosettlements.com
13 does not provide links to the long-form Class Notice, Claim Form, or Exclusion Form, but only to
14 the Background Check Class Postcard Notice (which notice refers recipients to the
15 gencosettlements.com website for further information and the complete Class Notice). In
16 addition, the website's “Home” page text incorrectly states the case number for the Wage and
17 Hour Lawsuit (*i.e.*, “This case involves two Lawsuits, the Background Check Lawsuit (Case No.
18 3:17-cv-03692-YGR) and the Wage and Hour Lawsuit (Case No. 4:17-cv-03692-YGR),” emphasis
19 supplied). Finally, the website's link to “Court Documents” provides only the text of the Motion
20 for Final Approval of Class Action Settlement and for Award of Attorneys' Fees and Costs,
21 omitting the documents submitted in support of the requested fees and costs, and noticing the
22 hearing for the incorrect November 27, 2018 date.

23 Based upon the foregoing, the Court **ORDERS** that the parties submit a joint written
24 response on the issues stated herein, including any declarations or documentary evidence to
25 support their response, no later than **November 27, 2018**.

26 **IT IS SO ORDERED.**

27 Dated: November 15, 2018


28 YVONNE GONZALEZ ROGERS
UNITED STATES DISTRICT COURT JUDGE